

**Introduced by Senator Kehoe**

February 25, 2009

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Senate Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, and by amending Section 18 of Article XVI thereof, relating to public safety services funding.

**LEGISLATIVE COUNSEL'S DIGEST**

SCA 12, as introduced, Kehoe. Public safety services: local government.

(1) The California Constitution prohibits any ad valorem tax on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit on ad valorem tax on real property, for an ad valorem rate imposed by a city, county, city and county, or special district to pay for bonded indebtedness incurred to fund facilities, buildings, or equipment used directly and exclusively to provide emergency services to the public, or to fund the related acquisition or lease of real property, if approved by 55% of the voters of the city, county, city and county, or special district, as applicable.

(2) The California Constitution prohibits a city or county from incurring any indebtedness exceeding in one year the income and revenue provided in that year, without the assent of  $\frac{2}{3}$  of the voters.

This measure would lower to 55% the voter approval threshold for a city, county, or city and county to incur bonded indebtedness, exceeding in one year the income and revenue provided in that year, that is in the

form of general obligation bonds to fund facilities, buildings, or equipment used directly and exclusively to provide emergency services to the public, or to fund the related acquisition or lease of real property.

(3) Under the California Constitution, a local government may not impose, extend, or increase any special tax unless that tax is submitted to the electorate and approved by a  $\frac{2}{3}$  vote of the voters voting on the measure.

This measure would, as an exception to this voter approval threshold, allow a local government to impose, extend, or increase a special tax for the purpose of funding for fire protection services, and certain sheriff and police equipment and services, if that tax is approved by a 55% vote of the voters voting on the measure. This measure would prohibit the revenues derived from such a tax from being expended to supplant any other funding source for these purposes.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

1     *Resolved by the Senate, the Assembly concurring,* That the  
2     Legislature of the State of California at its 2009–10 Regular  
3     Session commencing on the first day of December 2008, two-thirds  
4     of the membership of each house concurring, hereby proposes to  
5     the people of the State of California, that the Constitution of the  
6     State be amended as follows:

7     First—That Section 1 of Article XIII A thereof is amended to  
8     read:

9     SECTION 1. (a) The maximum amount of any ad valorem  
10    tax on real property shall not exceed ~~One 1 percent (1%)~~ of the  
11    full cash value of ~~such~~ *that* property. The ~~one 1 percent (1%)~~ tax  
12    ~~to~~ *shall* be collected by the counties and apportioned according to  
13    law to the districts within the counties.

14    (b) The limitation provided for in subdivision (a) shall not apply  
15    to ad valorem taxes or special assessments to pay the interest and  
16    redemption charges on any of the following:

17    (1) Indebtedness approved by the voters prior to July 1, 1978.

18    (2) Bonded indebtedness for the acquisition or improvement of  
19    real property approved on or after July 1, 1978, by two-thirds of  
20    the votes cast by the voters voting on the proposition.

21    (3) Bonded indebtedness incurred by a school district,  
22    community college district, or county office of education for the  
23    construction, reconstruction, rehabilitation, or replacement of

1 school facilities, including the furnishing and equipping of school  
2 facilities, or the acquisition or lease of real property for school  
3 facilities, approved by 55 percent of the voters of the district or  
4 county, as appropriate, voting on the proposition on or after the  
5 effective date of the measure adding this paragraph. This paragraph  
6 shall apply only if the proposition approved by the voters and  
7 resulting in the bonded indebtedness includes all of the following  
8 accountability requirements:

9 (A) A requirement that the proceeds from the sale of the bonds  
10 be used only for the purposes specified in Article XIII A, Section  
11 1(b)(3), and not for any other purpose, including teacher and  
12 administrator salaries and other school operating expenses.

13 (B) A list of the specific school facilities projects to be funded  
14 and certification that the school district board, community college  
15 board, or county office of education has evaluated safety, class  
16 size reduction, and information technology needs in developing  
17 that list.

18 (C) A requirement that the school district board, community  
19 college board, or county office of education conduct an annual,  
20 independent performance audit to ensure that the funds have been  
21 expended only on the specific projects listed.

22 (D) A requirement that the school district board, community  
23 college board, or county office of education conduct an annual,  
24 independent financial audit of the proceeds from the sale of the  
25 bonds until all of those proceeds have been expended for the school  
26 facilities projects.

27 *(4) Bonded indebtedness incurred by a city, county, city and*  
28 *county, or special district to fund the construction, reconstruction,*  
29 *rehabilitation, or replacement of facilities, buildings, or equipment*  
30 *used directly and exclusively to provide emergency services to the*  
31 *public, or to fund the acquisition or lease of real property for those*  
32 *facilities or buildings, approved by 55 percent of the voters of the*  
33 *city, county, city and county, or special district, as applicable,*  
34 *voting on the proposition on or after the effective date of the*  
35 *measure adding this paragraph.*

36 (c) Notwithstanding any other provisions of law or of this  
37 Constitution, ~~a school-districts district, community college-districts~~  
38 ~~district, and county-offices~~ office of education, city, county, city  
39 and county, or special district may levy a 55 percent vote ad

1 valorem tax pursuant to *the applicable provisions of* subdivision  
2 (b).

3 Second—That Section 4 of Article XIII A thereof is amended  
4 to read:

5 Section 4. ~~Cities, Counties and special districts, Except as~~  
6 ~~otherwise provided by paragraph (2) of subdivision (d) of Section~~  
7 ~~2 of Article XIII C, a city, county, city and county, or special~~  
8 ~~district, by a two-thirds vote of the qualified electors of such district~~  
9 ~~its voters voting on the proposition, may impose special taxes on~~  
10 ~~such district a special tax within that city, county, city and county,~~  
11 ~~or special district, except an ad valorem taxes tax on real property~~  
12 ~~or a transaction transactions tax or sales tax on the sale of real~~  
13 ~~property within such City, County that city, county, or special~~  
14 ~~district.~~

15 Third—That Section 2 of Article XIII C thereof is amended to  
16 read:

17 SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding  
18 any other provision of this Constitution:

19 (a) ~~All taxes~~ A tax imposed by any local government ~~shall be~~  
20 ~~deemed to be~~ is either a general taxes tax or a special taxes tax.  
21 ~~Special purpose districts~~ A special purpose district or agencies  
22 agency, including a school districts district, ~~shall have~~ has no  
23 power to levy a general taxes tax.

24 (b) ~~No~~ A local government ~~may~~ shall not impose, extend, or  
25 increase any general tax unless and until that tax is submitted to  
26 the electorate and approved by a majority vote of its voters voting  
27 on the proposition. A general tax ~~shall~~ is not be deemed to have  
28 been increased if it is imposed at a rate not higher than the  
29 maximum rate so approved. The election required by this  
30 subdivision shall be consolidated with a regularly scheduled general  
31 election for members of the governing body of the local  
32 government, except in cases of emergency declared by a unanimous  
33 vote of the governing body.

34 (c) Any general tax imposed, extended, or increased, without  
35 voter approval, by any local government on or after January 1,  
36 1995, and prior to the effective date of this article, shall continue  
37 to be imposed only if *that general tax is* approved by a majority  
38 vote of the voters voting in an election on the issue of the  
39 imposition, which election ~~shall be~~ is held within two years of the

1 ~~effective date of this article no later than November 6, 1998, and~~  
2 ~~in compliance with subdivision (b).~~

3 ~~(d) No (1) Except as otherwise provided by paragraph (2), a~~  
4 ~~local government may shall not impose, extend, or increase any~~  
5 ~~special tax unless and until that tax is submitted to the electorate~~  
6 ~~and approved by a two-thirds vote of the voters voting on the~~  
7 ~~proposition. A special tax shall not be deemed to have been~~  
8 ~~increased if it is imposed at a rate not higher than the maximum~~  
9 ~~rate so approved.~~

10 (2) A local government may, with the approval of 55 percent of  
11 its voters voting on the proposition, impose, extend, or increase a  
12 special tax to provide funding for any or all of the following  
13 purposes:

14 (A) Fire protection services, including, but not limited to, the  
15 purchase and maintenance of fire suppression equipment, or of  
16 interoperable communications equipment for use by fire personnel.

17 (B) The purchase and maintenance of interoperable  
18 communications equipment for use by police and sheriff personnel.

19 (C) Sheriff or police services provided within its jurisdiction in  
20 response to an emergency declared by the Governor or the  
21 President of the United States.

22 (3) The revenues derived from the imposition, extension, or  
23 increase of a special tax pursuant to paragraph (2) shall not be  
24 expended to supplant any other funding source for any of the  
25 purposes described by that paragraph.

26 (4) A special tax is not deemed to have been increased if it is  
27 imposed at a rate not higher than the maximum rate approved for  
28 that tax in the manner required by law.

29 Fourth—That Section 18 of Article XVI thereof is amended to  
30 read:

31 SEC. 18. (a) No county, city, town, township, board of  
32 education, or school district; shall incur any indebtedness or  
33 liability in any manner or for any purpose exceeding in any year  
34 the income and revenue provided for such year, without the assent  
35 of that year, unless both of the following conditions are met:

36 (1) The indebtedness or liability is approved by two-thirds of  
37 the voters of the public entity voting at an election to be held for  
38 that purpose, except that with respect to any such public entity  
39 which is authorized to incur indebtedness for public school  
40 purposes, any proposition for the incurrence of indebtedness in

1 the form of general obligation bonds for the purpose of repairing,  
2 reconstructing or replacing public school buildings determined, in  
3 the manner prescribed by law, to be structurally unsafe for school  
4 use, shall be adopted upon the approval of a majority of the voters  
5 of the public entity voting on the proposition at such election; nor  
6 ~~unless before as otherwise provided by subdivision (b).~~

7 (2) ~~Before~~ or at the time of incurring ~~such the~~ indebtedness,  
8 provision ~~shall be~~ is made for the collection of an annual tax  
9 sufficient to pay the interest on ~~such the~~ indebtedness as it falls  
10 due, and to provide for a sinking fund for the payment of the  
11 principal thereof, on or before maturity, which shall not exceed  
12 ~~forty~~ 40 years from the time of contracting the indebtedness.

13 (b) ~~Notwithstanding subdivision (a), on Indebtedness may be~~  
14 ~~incurred under each of the following circumstances:~~

15 (1) *In the case of a public entity enumerated in subdivision (a)*  
16 *that is authorized to incur indebtedness for public school purposes,*  
17 *any proposition to incur indebtedness in the form of general*  
18 *obligation bonds for the purpose of repairing, reconstructing, or*  
19 *replacing public school buildings determined, in the manner*  
20 *prescribed by law, to be structurally unsafe for school use, shall*  
21 *be adopted upon the approval of a majority of the voters of the*  
22 *public entity voting on the proposition at an election.*

23 (2) ~~On or after the effective date of the measure adding this~~  
24 ~~subdivision~~ November 8, 2000, in the case of any school district,  
25 community college district, or county office of education, any  
26 proposition for the incurrence of indebtedness in the form of  
27 general obligation bonds for the construction, reconstruction,  
28 rehabilitation, or replacement of school facilities, including the  
29 furnishing and equipping of school facilities, or the acquisition or  
30 lease of real property for school facilities, shall be adopted upon  
31 the approval of 55 percent of the voters of the district or county,  
32 as appropriate, voting on the proposition at an election. This  
33 ~~subdivision paragraph~~ shall apply ~~only~~ to a proposition for the  
34 incurrence of indebtedness in the form of general obligation bonds  
35 for the purposes specified in this ~~subdivision paragraph~~ *only* if  
36 the proposition meets all of the accountability requirements of  
37 paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

38 (e)

39 (3) *On or after the effective date of the measure adding this*  
40 *paragraph, in the case of any city, county, or city and county, any*

1 *proposition to incur indebtedness in the form of general obligation*  
2 *bonds to fund the construction, reconstruction, rehabilitation, or*  
3 *replacement of facilities, buildings, or equipment used directly*  
4 *and exclusively to provide emergency services to the public, or to*  
5 *fund the acquisition or lease of real property for those facilities*  
6 *or buildings, shall be adopted upon the approval of 55 percent of*  
7 *the voters of the city, county, or city and county, as applicable,*  
8 *voting on the proposition at an election.*

9 ~~(d)~~

10 (c) When two or more propositions for incurring any  
11 indebtedness or liability are submitted at the same election, the  
12 votes cast for and against each proposition shall be counted  
13 separately, and when two-thirds or a majority or 55 percent of the  
14 voters, as the case may be, voting on any one of those propositions,  
15 vote in favor thereof, the proposition shall be deemed adopted.